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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,505	01/16/2004	Guillermo C. Bazan	1279-400C1/1021394	7669
167	7590	06/13/2006		EXAMINER
FULBRIGHT AND JAWORSKI LLP 555 S. FLOWER STREET, 41ST FLOOR LOS ANGELES, CA 90071				THOMPSON, CAMIE S
			ART UNIT	PAPER NUMBER
			1774	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/759,505	BAZAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Camie S. Thompson	1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on RCE filed 5/1/06.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-12 and 16 is/are rejected.
- 7) Claim(s) 13-15 and 17 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 1, 2006 has been entered.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 6-8, 10-11 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Kita et al., U.S. Patent Number 6,656,608.

Kita discloses an electroluminescent element comprising an electroluminescent material and a fluorescent substance (see abstract or column 1, lines 5-12). Formula G2 of the reference discloses a binaphthyl compound that reads on instant claims 1 (see column 6). The reference discloses that R<sub>91</sub> and R<sub>92</sub> can be a heterocycle group where m and n are both 1 or more, which reads on the binaphthyl compounds found in the instant claims when n<sup>1</sup> and n<sup>2</sup> are 0 (see column 9, lines 50-60). Also, as per the instant claims, G2 reads on the instant claims with an alkyl

(methyl) substituent located at another position except those occupied by  $(X^1)n^1Ar^1$  and  $(X^2)n^2Ar^2$ . Additionally, the reference discloses that the compounds of the reference can be fluorescent dyes as per instant claim 6 (see column 16, lines 6-44). Column 53, lines 33-59 of the reference discloses the layer structure of the electroluminescent compound as comprising a substrate/anode/hole injection layer/light emissive layer/electron injection layer/cathode as per instant claims 7-8 and 10-11. The Kita reference also discloses that the binaphthyl compounds are separately contained in different layers and may be an emission material, a hole injection material or an electron injection material as per instant claims 7-8 and 10-11 (see column 52, lines 30-59).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kita et al., U.S. Patent Number 6,565,608.

Kita discloses an electroluminescent element comprising an electroluminescent material and a fluorescent substance (see abstract or column 1, lines 5-12). Formula G2 of the reference discloses a binaphthyl compound that reads on instant claims 1 (see column 6). The reference discloses that  $R_{91}$  and  $R_{92}$  can be a heterocycle group where m and n are both 1 or more, which

reads on the binaphthyl compounds found in the instant claims when  $n^1$  and  $n^2$  are 0 (see column 9, lines 50-60). Column 6, lines 25-32 of the reference discloses that  $R_{91}$  and  $R_{92}$  can be condensed with each other. The reference does not disclose how many condensed rings  $R_{91}$  and  $R_{92}$  have as per instant claim 3. However, the reference does disclose that  $n$  can be 1 or more. Therefore, it would have been obvious to one of ordinary skill in the art to have  $X^1$  and  $X^2$  be one, two or three-condensed aromatic rings. The reference does not disclose the concentration of the binaphthyl compound as per instant claim 9. However, this is an optimizable feature. The concentration of the binaphthyl compound affects the luminescent efficiency. Discovery of optimum values of a result effect variable involves only routine skill in the art *in re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to one of ordinary skill in the art to have a binaphthyl compound with a concentration in the range of 0.01 to 20% by weight in order to have an organic light-emitting device with high luminescent efficiency.

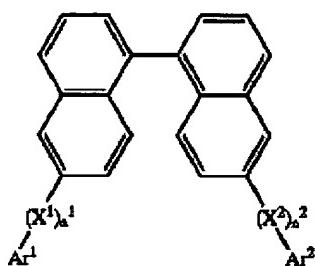
### ***Double Patenting***

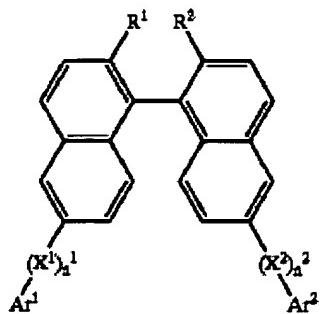
6. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

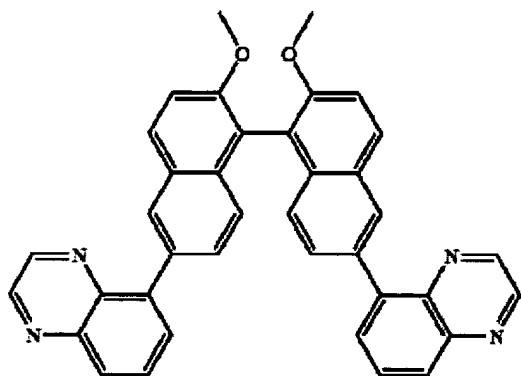
7. Claims 1-11 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-11 of copending Application No. 10/346,667. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

8. Claims 13-15 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art does not provide for an organic light emitting device comprising an anode and a cathode, and an emissive layer between the anode and cathode, the device including a hole-blocking layer between the emissive layer and the cathode comprising binaphthyl compounds with the general formulas

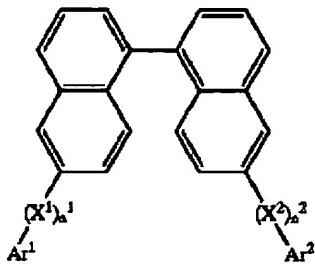




The prior art does not provide for an organic light emitting device having an anode and a cathode, and an emissive layer between the anode and cathode, the device including a hole-blocking layer between the emissive layer and the cathode comprising a compound of the formula:



Additionally, the prior art does not provide for an organic light emitting device having an anode and cathode and an emissive layer between the anode and cathode, the emissive layer comprising the binaphthyl compound of



and further including the phosphorescent dye, fac-tris(2-phenylpyridine) iridium (III).

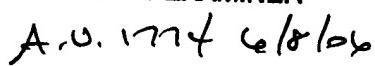
#### ***Response to Arguments***

9. Applicant's arguments filed January 30, 2006 have been fully considered but they are not persuasive. Applicant argues that the Kita reference is a generic formula that covers a large number of possible types of structures. The instant claims are generic and cover a large number of possible structures as well. Additionally, applicant argues that the Kita reference does not provide the position of  $(X^1)_n^1 Ar^1$  and  $(X^2)_n^2 Ar^2$ . Formula G2 of the Kita reference discloses that  $(R_{91})_n$  and  $(R_{92})_m$  can be placed anywhere on the phenyl groups of the binaphthyl framework that are not connected. When m and n of the Kita reference are 1, the  $(R_{91})_n$  and  $(R_{92})_m$  substituents can be placed on the phenyl groups of the binaphthyl framework that are not connected and on the same position as the substituents of the instant claims since  $(R_{91})_n$  and  $(R_{92})_m$  can be placed anywhere. The rejections are maintained.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (571) 272-1530. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L Dye, can be reached at (571) 272-3186. The fax phone number for the Group is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RENA DYE  
SUPERVISORY PATENT EXAMINER  
  
A.U. 1774 4/8/05